

**ASSEMBLY BILL**

**No. 252**

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**Introduced by Assembly Member Coto**

February 5, 2007

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An act to amend Section 60640 of the Education Code, relating to pupil testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 252, as introduced, Coto. Pupil testing: primary language assessments: dual immersion programs.

(1) The Leroy Greene California Assessment of Academic Achievement Act, commencing July 1, 2007, requires school districts, charter schools, and county offices of education to administer to their pupils in grades 3 to 11, inclusive, certain achievement tests, including a standards-based achievement test pursuant to the Standardized Testing and Reporting (STAR) Program. The act allows, at the option of the local educational agency, a pupil with limited English proficiency enrolled in any of those grades to take a 2nd achievement test in his or her primary language. The State Department of Education is required to use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 to adopt primary language assessments that are aligned to state content standards, including assessments for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils, as determined by the count in the annual language census of the primary language of limited-English-proficient pupils in public schools. Local educational agencies are required to administer a dominant primary language assessment that is available for use for a specific grade level in place of primary language achievement tests.

This bill would authorize the department, subject to approval by the State Board of Education and to approval of a compensation agreement by the Department of Finance, to make primary language assessments available to public schools for assessing pupils enrolled in dual language immersion programs that include the primary language of the assessments.

(2) The act, commencing July 1, 2007, further requires the Superintendent of Public Instruction, with the approval of the state board, annually to release to the public a minimum of 25% of test items from the California Standards Tests administered in the previous year.

This bill, in addition, would require the Superintendent, annually to release to the public a minimum of 25% of test items from primary language assessments administered in the previous year commencing with assessments administered to pupils in 2011.

(3) The bill would also make technical, nonsubstantive changes to those provisions of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 60640 of the Education Code, as amended  
2     by Section 5 of Chapter 676 of the Statutes of 2005, is amended  
3     to read:  
4     60640. (a) There is hereby established the Standardized Testing  
5     and Reporting Program, to be known as the STAR Program.  
6     (b) Commencing in the ~~2007-08~~ 2007-08 fiscal year and each  
7     fiscal year thereafter, and from the funds available for that purpose,  
8     each school district, charter school, and county office of education  
9     shall administer to each of its pupils in grades 3 and 7 the  
10    achievement test designated by the state board pursuant to Section  
11    60642 and shall administer to each of its pupils in grades 3 to 11,  
12    inclusive, the standards-based achievement test provided for in  
13    Section 60642.5. The state board shall establish a testing period  
14    to provide that all schools administer these tests to pupils at  
15    approximately the same time during the instructional year, except  
16    as necessary to ensure test security and to meet the final filing  
17    date.

1 (c) The publisher and the school district shall provide two  
2 makeup days for the testing of previously absent pupils within the  
3 testing period established by the state board in subdivision (b).

4 (d) The governing board of the school district may administer  
5 achievement tests in grades other than those required by  
6 subdivision (b) as it deems appropriate.

7 (e) Pursuant to ~~paragraph (17) of subsection (a) of Section 1412~~  
8 ~~1412(a)(17)~~ of Title 20 of the United States Code, individuals with  
9 exceptional needs, as defined in Section 56026, shall be included  
10 in the testing requirement of subdivision (b) with appropriate  
11 accommodations in administration, where necessary, and those  
12 individuals with exceptional needs who are unable to participate  
13 in the testing, even with accommodations, shall be given an  
14 alternate assessment.

15 (f) (1) At the option of the school district, a pupil with limited  
16 English proficiency who is enrolled in any of grades 3 to 11,  
17 inclusive, may take a second achievement test in his or her primary  
18 language. Primary language tests administered pursuant to this  
19 subdivision and subdivision (g) shall be subject to the requirements  
20 of subdivision (a) of Section 60641. These primary language tests  
21 shall produce individual pupil scores that are valid and reliable.

22 (2) Notwithstanding any other law, the state board shall  
23 designate for use, as part of this program, a single primary language  
24 test in each language for which a test is available for grades 3 to  
25 11, inclusive, pursuant to the process used for designation of the  
26 assessment chosen in the ~~1997-98~~ 1997-98 fiscal year, as specified  
27 by Sections 60642 and 60643, and as specified by Section 60642.5,  
28 as applicable.

29 (3) (A) The department shall use funds made available pursuant  
30 to Title VI of the federal No Child Left Behind Act of 2001 (20  
31 *U.S.C. Sec. 6301 et seq.*) and appropriated by the annual Budget  
32 Act for the purpose of developing and adopting primary language  
33 assessments that are aligned to the state academic content  
34 standards. Subject to the availability of funds, primary language  
35 assessments shall be developed and adopted for reading/language  
36 arts and mathematics in the dominant primary language of  
37 limited-English-proficient pupils. The dominant primary language  
38 shall be determined by the count in the annual language census of  
39 the primary language of each limited-English-proficient pupil  
40 enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.

(C) In selecting a contractor to develop a primary language assessment, the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to the STAR Program.

(E) If the state board contracts for the development of primary language assessments or test items to augment an existing assessment, the state shall retain ownership rights to the assessment and the test items. With the approval of the state board, the department may license the test for use in other states subject to a compensation agreement approved by the Department of Finance.

*(F) The department, subject to approval by the state board and to approval of a compensation agreement by the Department of Finance, may make a primary language assessment developed pursuant to this paragraph available to public schools for use in assessing pupils enrolled in a dual language immersion program that includes the primary language of the assessment.*

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 3 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months shall be required to take a test in his or her primary language if a test is available.

(h) (1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

(2) The state board ~~annually~~ shall ~~annually~~ establish the amount of funding to be apportioned to school districts for each test administered and ~~annually~~ shall ~~annually~~ establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the

1 cost estimates submitted by each publisher each September and  
2 the amount included in the annual Budget Act, and by making  
3 allowance for the estimated costs to school districts for compliance  
4 with the requirements of subdivision (b), the alternative assessment  
5 required by subdivision (e), and subdivisions (f) and (g).

6 (3) An adjustment to the amount of funding to be apportioned  
7 per test may not be valid without the approval of the Director of  
8 Finance. A request for approval of an adjustment to the amount  
9 of funding to be apportioned per test shall be submitted in writing  
10 to the Director of Finance and the chairpersons of the fiscal  
11 committees of both houses of the Legislature with accompanying  
12 material justifying the proposed adjustment. The Director of  
13 Finance is authorized to approve only those adjustments related  
14 to activities required by statute. The Director of Finance shall  
15 approve or disapprove the amount within 30 days of receipt of the  
16 request and shall notify the chairpersons of the fiscal committees  
17 of both houses of the Legislature of the decision.

18 (i) For the purposes of making the computations required by  
19 Section 8 of Article XVI of the California Constitution, the  
20 appropriation for the apportionments made pursuant to paragraph  
21 (1) of subdivision (h), and the payments made to the publishers  
22 under the contracts required pursuant to Section 60643 or  
23 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
24 60605 between the department and the contractor, are "General  
25 Fund revenues appropriated for school districts," as defined in  
26 subdivision (c) of Section 41202, for the applicable fiscal year,  
27 and included within the "total allocations to school districts and  
28 community college districts from General Fund proceeds of taxes  
29 appropriated pursuant to Article XIII B," as defined in subdivision  
30 (e) of Section 41202, for that fiscal year.

31 (j) As a condition to receiving an apportionment pursuant to  
32 subdivision (h), a school district shall report to the Superintendent  
33 all of the following:

34 (1) The number of pupils enrolled in the school district in grades  
35 3 to 11, inclusive.

36 (2) The number of pupils to whom an achievement test was  
37 administered in grades 3 to 11, inclusive, in the school district.

38 (3) The number of pupils in paragraph (1) who were exempted  
39 from the test at the request of their parents or guardians.

1 (k) The Superintendent and the state board are authorized and  
2 encouraged to assist postsecondary educational institutions to use  
3 the assessment results of the California Standards Tests, including,  
4 but not limited to, the augmented California Standards Tests, for  
5 academic credit, placement, or admissions processes.

6 (l) ~~(1) The Superintendent shall, with the~~ *subject to approval*  
7 ~~of by~~ the state board, annually *shall* release to the public at least  
8 25 percent of test items from the standards-based achievement test  
9 provided for in Section 60642.5 from the test administered in the  
10 previous year.

11 (2) *The Superintendent annually shall release to the public at*  
12 *least 25 percent of test items from primary language assessments*  
13 *adopted pursuant to paragraph (3) of subdivision (f) that were*  
14 *administered in the previous year, commencing with assessments*  
15 *administered to pupils in 2011.*

16 (m) This section shall become operative July 1, 2007.